

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD GARNES,

Petitioner,

No. CIV S-03-0527 FCD EFB P

vs.

ANTHONY LAMARQUE, et al.,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's January 26, 2007 denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate of appealability must “indicate which specific issue or issues satisfy” the requirement. 28 U.S.C. § 2253(c)(3).

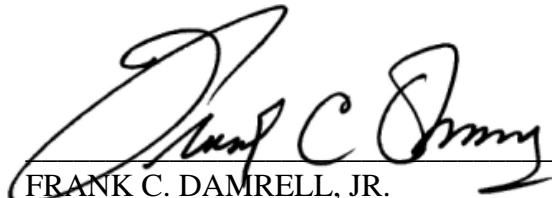
A certificate of appealability should be granted for any issue that petitioner can demonstrate is “‘debatable among jurists of reason,’” could be resolved differently by a different court, or is “‘adequate to deserve encouragement to proceed further.’” Jennings v. Woodford,

1 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).¹

2 Petitioner has made a substantial showing of the denial of a constitutional right in
3 the following issues presented in the instant petition: (1) where there is sufficient evidence to
4 support petitioner's attempted murder conviction; (2) whether the trial court erred in excluding
5 relevant evidence; (3) whether the trial court erred in admitting evidence of petitioner's prior
6 conduct; (4) whether petitioner received ineffective assistance of trial counsel; (5) whether jury
7 instruction error violated petitioner's right to due process; and (6) whether the cumulative effect
8 of errors at trial violated petitioner's right to due process.

9 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability is
10 issued in the present action.

11 DATED: April 11, 2007.

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14 FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE
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25 ¹ Except for the requirement that appealable issues be specifically identified, the
26 standard for issuance of a certificate of appealability is the same as the standard that applied to
issuance of a certificate of probable cause. Jennings, 290 F.3d at 1010.